

A Special Meeting of the
Brian Head Town Council
56 North Highway 143 / TOWN HALL
TUESDAY, JUNE 03, 2014 @ 3:00 PM

Roll Call.

Members Present: Mayor H.C. Deutschlander, Council Member Jim Ortler, Council Member Larry Freeberg, Council Member Clayton Calloway, Council Member Reece Wilson.

Staff Present: Bret Howser, Nancy Leigh, Tom Stratton

A. CALL TO ORDER

Mayor Deutschlander called the special meeting of the Brian Head Town Council to order at 3:00 pm.

B. PLEDGE OF ALLEGIANCE

Mayor Deutschlander led the Council and others in the Pledge of Allegiance.

C. DISCLOSURES

- Mayor Deutschlander stated he may have a potential conflict of interest with today's agenda item, but he does not view it in that way. Mayor Deutschlander stated the Council is doing the best as they can for the community.

There were no other conflicts of interest with today's agenda items. Mayor Deutschlander stated that the disclosure statements are on file at the Town Clerk's office and are available for public inspection during normal business hours.

D. PUBLIC INPUT/ REPORTS (Limited to three (3) minutes) Non-Agenda Items

No reports were given.

E. AGENDA ITEMS:

1. BRISTLECONE POND CHANGE ORDER. A change order for the Bristlecone Pond project.

Tom Stratton, Public Works Director, explained during the last Council meeting, Council directed staff to meet with JP Excavating to present a change order for the pond project (see attached). Tom reported this would be change order #4 and would be a difference in the total of the contract.

The Council held discussion on the following:

1. The change order would identify concrete ditches in order to keep the water above ground instead of piping the water. The ditch would be lined with rock for aesthetic purposes.
2. Council Member Ortler inquired what is still needed to be completed that is not identified in the change order. Tom responded that hydroseeding and trees are not included in the change order.
3. The valve at the pond was closed today in order to allow the pond to start to fill.
4. Council Member Ortler inquired how much capacity the town lost on terms of the environment for the fish. Tom responded the town has lost some because of the sand bars and sliding that has taken place. A survey crew is surveying the pond today and will know once they are completed.
5. It is estimated that a loss of ten percent (10%) of irrigation water has taken place.
6. Bret reported with the change order that JP Excavating is presenting today, the cost for completing the pond project would be \$100,000 and the rest of the amount can be directed towards the repair of the highway.
7. Judd Palmer, JP Excavating, reported there is a second sheet which shows the remaining contract items which staff and Council does not have at this time.
8. Bret reported the re-vegetation and trees would be additional funds if the Council decides to approve change order #4.

- 1 9. Council Member Freeberg stated his concerns about the low water season and if erosion should happen. Tom responded the
2 low water season would be until September and October when the irrigation company is completed with their portion of the
3 water and then the gate/valve would be closed for the season.
- 4 10. Council Member Calloway inquired as to the status of the import materials and what is left. JP reported he has looked at the
5 site and there is no need to blast for more materials. He has sufficient materials for the road.
- 6 11. Council Member Wilson inquired as to the west side of the sink area towards chair #1 and where the cutoff of the proposed
7 repair is to be identified. Joel Meyers, GEM Engineering, presented the report which has the cross section designs (see
8 attached). Mr. Meyers reported the additional boring the Council requested has been completed. The soil profiles are
9 consistent in which the sand area are so saturated they flowed like a river.
- 10 12. GEM Engineering is proposing to dig the area down to bedrock which is approximately 25' to 35' down. This must also be
11 done in sections and each section will have a geo grid reinforced slopes. The town pit materials will be used to build an
12 embankment.
- 13 13. The area that has sluffed towards chair #1 will be re-graded.
- 14 14. Drains will be installed to drain the subgrade which will be drained into the pond.
- 15 15. An abuttrance will be built from the roadway up and there will be a French drain behind it.
- 16 16. Council Member Ortler inquired as to the cost of the proposed repair. Mr. Meyers responded he needs to meet with the
17 contractor to determine a cost.
- 18 17. Burke Wilkerson, Brian Head Resort, reported he would like some time to review the proposal before the Council approves
19 it and sends it to UDOT.
- 20 18. Mr. Wilkerson stated he has two questions: a) some of the settling and fracturing has occurred on resort's property. Will
21 there be more occurrences near chair #1? Mr. Meyers responded staff will monitor the area and will address it as needed,
22 but the area is showing it as the tail end of the slide area. b) What assurances does the resort have if something should go
23 wrong and if the town is going to correct the problem if it were to occur later? Mr. Wilkerson stated he would like the
24 resort's property back to the original conditional prior to the pond project. Council Member Ortler responded he is not
25 expressing a legal opinion, but believes the town has a responsibility to solve any issues that happen on private property as it
26 relates to this issue. Mr. Wilkerson inquired how many years down the road will the resort have assurances and he would like
27 to have something in writing.
- 28 19. Tom explained the ski towers were the first to be surveyed and is a priority on their list. The inclinometer that was placed by
29 the tower shows no movement in that area.
- 30 20. Mr. Meyers explained that the town will need to divert the surface water all around the pond area first and identifying the
31 ditches to move the water above ground.
- 32 21. Council Member Calloway suggested the town address where the property lines are located between the town and resort's
33 property in that area.
- 34 22. Burke Willkerson stated he would like to see an overall plan presented to the resort.
- 35 23. Judd Palmer stated that the road would not be opened by the 4th of July holiday and that it will actually take a couple of
36 months to complete.
- 37 24. Bret explained there was a miscommunication between the contractor and staff. In which he was under the impression that
38 the contract would forego his contract in lieu of change order #4.
- 39 25. JP explained the change order and existing contract: The re-grading of the slope would be completed. The deductions are as
40 follows: a) import materials, b) trees c) rock walls and d) water feature. The water feature was estimated at \$10,000 and the
41 rock wall was \$100,000 that was deducted. Mayor Deutschlander stated that if the town does not replace the top soil would
42 it be to the benefit of the town to eliminate the hydroseeding at this time. JP explained the existing top soil would support
43 the hydroseeding.

44
45 **Motion:** Council Member Ortler moved with the clear understanding to not obligate any additional funds at this time and
46 that there is a future change order that identifies deletions not known at this time to approve Change Order #4 in
47 the amount of \$98,658 and direct the contractor to commence with work immediately. Council Member Freeberg
48 seconded the motion.
49

50 The Council held discussion on the following:

- 51 1. Council Member Calloway stated he is not comfortable with moving forward without knowing what the credit will be.
- 52 2. Council Member Ortler stated the town cannot afford to continue to delay this item in which time is of the essence.
- 53 3. Tom reported the work can be completed in a week and will then address the road.
- 54 4. JP explained this is to fix the trail and construct the open ditches at this time. The cost to identify the ditches vs. the pipe in
55 the ground is basically the same cost.
- 56 5. JP reported that when walking the site today, there were different pockets of springs along the bank area and believed it
57 would be in the best interest of the town to not install pipe in the ground due to the high risk of the pipe breaking/freezing.

6. Bret wanted to clarify JP's contract which is \$402,000 outstanding and this change order for \$98,000 would be replacing the \$402,000. JP responded that with the change order and the deductions would be \$331,000 which includes the change order #4. Leaving \$70,000 to repair the road.
7. JP explained that the boat ramp and electrical are still to be completed. The re-vegetation is estimated at \$33,000 which includes hydroseeding.

Action: **Motion failed 2-3-0 (summary: Yes = 2, No = 3, Abstain = 0 Vote: Yes: Council Member Freeberg, Council Member Ortler. No: Council Member Calloway, Council Member Wilson, Mayor Deutschlander).**

Council Member Ortler stated that the work still needs to be completed and with the upcoming 4th of July holiday, the Council needs to reconsider this item.

Council Member Calloway stated he voted nay because as the discussion continued, the information Council received was unclear. He would like to see a breakdown of the items that are to be deducted from the original contract and believes the change order presented, it would increase the contract instead of reduce it.

Bret Howser, Town Manager, explained there was miscommunication between the contractor and the project manager and he was under the impression that the change order would replace the existing contract.

Council Member Freeberg stated he would like to see more information and the full financial aspects, but that the work needs to be completed and that time is of the essence. The Council then reviewed the items that would be deducted from the contract:

1. The remaining import materials of 4" of top soil for the trail would be deducted.
2. Water Features in the amount of \$10,000
3. The rock wall in the amount of \$100,000
4. Trees were also deducted out.
5. The existing top soil that is on site can be used to support the hydroseeding.

JP explained he was under the impression that the trails were what needed to be completed by the 4th of July holiday, not the road.

Motion: Council Member Wilson moved to reconsider the original vote with the clear understanding to not obligate any additional funds at this time and that there is a future change order that identifies deletions not known at this time to approve Change Order #4 in the amount of \$98,658 and direct the contractor to commence with work immediately. Council Member Ortler seconded the motion.

Council held discussion regarding the wording of the motion and identifying the credit instead of approving change order which could be in addition to the contract. Council Member Ortler stated it would be beneficial to withdraw the motion and make a new motion. Council Member Calloway requested that the amount of the credit be added to the wording of the motion.

Motion: Council Member Wilson withdrew his motion. Council Member Ortler seconded.

Motion: Council Member Ortler moved to approve change order #4 amount of a \$71,275 net credit. Council Member Calloway seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes: Council Member Calloway, Council Member Freeberg, Council Member Ortler, Council Member Wilson, Mayor Deutschlander).**

Burke Wilkerson, Brian Head Resort, requested clarification for the public on how much it will cost to complete the pond project and road. Council Member Ortler stated that there is approximately \$70,000 to complete the road with the approval of this change order.

Joel Meyers, GEM Engineering reported UDOT has stated they will neither agree nor disagree with the proposed repair of the road at this time. He has verbally reviewed it with them and they have essentially given their approval, but GEM needed Council approval first.

Council Member Ortler stated that in view of JP's comment regarding not being completed by the 4th of July, he would like to request staff to present a plan for the upcoming 4th of July weekend for detouring traffic through town along with addressing the fireworks and how they will be shot off and the location for approximately 8,000 people at the next Council meeting on June 10th. Bret reported staff has a meeting planned on June 5th at 10:00 am at the town hall.

Council Member Calloway stated he would like to have a rough estimate from JP Excavating of what the cost of the road repair will be.

H. ADJOURNMENT

Motion: Council Member Ortler moved to adjourn the special meeting of the Brian Head Town Council for June 3, 2014. Council Member Calloway seconded the motion.

Action: **Motion carried 5-0-0 (summary: Yes = 5 Vote: Yes:** Council Member Calloway, Council Member Freeberg, Council Member Ortler, Council Member Wilson, Mayor Deutschlander).

The special meeting of the Brian Head Town Council was adjourned at 4:40 pm for June 3, 2014.

June 10, 2014

Date Approved

Nancy Leigh, Town Clerk